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## TOURISM LAW (STUDY ON THE DUTCH CEMETRY IN PENELEH SURABAYA) Tomy Michael<sup>1</sup>

### Abstract

A law is said to be good if the law goes according to its function. By all means is to implement the law in law science. The application of the law is a state characteristic of the law in which the application will be achieved legal objectives consisting of legal justice, legal certainty and legal benefit. Starting from this, the development of tourism in Indonesia, especially in the Dutch cemetery in Peneleh Surabaya does not comply with Act No. 10-2009. This development is also influenced by human resources in this case the government of Surabaya is less concerned about the existence of the Dutch cemetery in Peneleh Surabaya. By doing empirism research, the results are still low desire of Surabaya city government because the location is not located in the city center

Keyword: tourism law, dutch cemetery, Peneleh

### A. Introduction

Law enforcement is a must in a country. The country in question is a legal state that remains in accordance with the legislation. But in factual, the state often does repressive law enforcement so as to bring the result of false legal observance. Law enforcement includes all things and one that has the current attention is the enforcement of tourism law.

Normatively, in the Act of the Republic of Indonesia Number 10 year 2009 about tourism (Act No. 10-2009), tourism is a travel activity made by a person or group of people by visiting a particular place for recreational purposes, personal development, or learning the uniqueness of tourist attraction visited in a temporary period (Article 1 digit 1), tourism is a wide range of tourist activities and supported various facilities and services provided by the community, entrepreneurs, governments, and local governments (article 1 digit 3) and tourism is the whole activity that are related to tourism and multidimensional and multidisciplinary that emerge as a manifestation of the needs of every person and country as well as interaction between tourists and local people, fellow travelers, governments, local governments, and of employers (article 1 digit 4). Historically tourism in Indonesia was initiated by associations and individuals who traveled. The establishment of a tourism organization imitates Japan, where the travel activities undertaken by a sports and lifestyle Association (motorcycle), social gatherings of society and commercial as well as individuals. People who were pioneers of tourism in the Dutch East Indies such as the pastor Marius Buys, journalist Karel Zaalberg, professional in the field of hospitality Johan Martinus Gantvoort, civil servant Louis Constant Westenenk, and the later military governor Dutch East Indies general J.B. van Heutsz.<sup>2</sup>

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<sup>2</sup> Gladys Angelika, *Awal Mula Pariwisata Di Indonesia*, <http://historia.id/budaya/awal-mula-pariwisata-di-indonesia>, access 8 Juli 2017.

Compare with the meaning given by Commission on Sustainable Development (CSD) Tourism is a worldwide phenomenon and currently one of the fastest growing sectors of the global economy. The number of international arrivals has more than trebled since 1971, from 179 million to 613 million in 1997. The World Tourism Organization (WTO) forecasts annual growth rates of 4.3 percent during the next two decades and expects the figure to rise to 1,600 million international arrivals by the year 2020. Domestic tourism is not included in these figures and has a volume that is several times larger than international tourism. Despite the growth in long-haul tourism, tourism activities continue to mainly

In these case, the enforcement of tourism law is not by giving sanctions or other deterrent effects but rather how it is a well-developed area. In article 4 of Act No. 10-2009 is explained tourism Purpose namely:

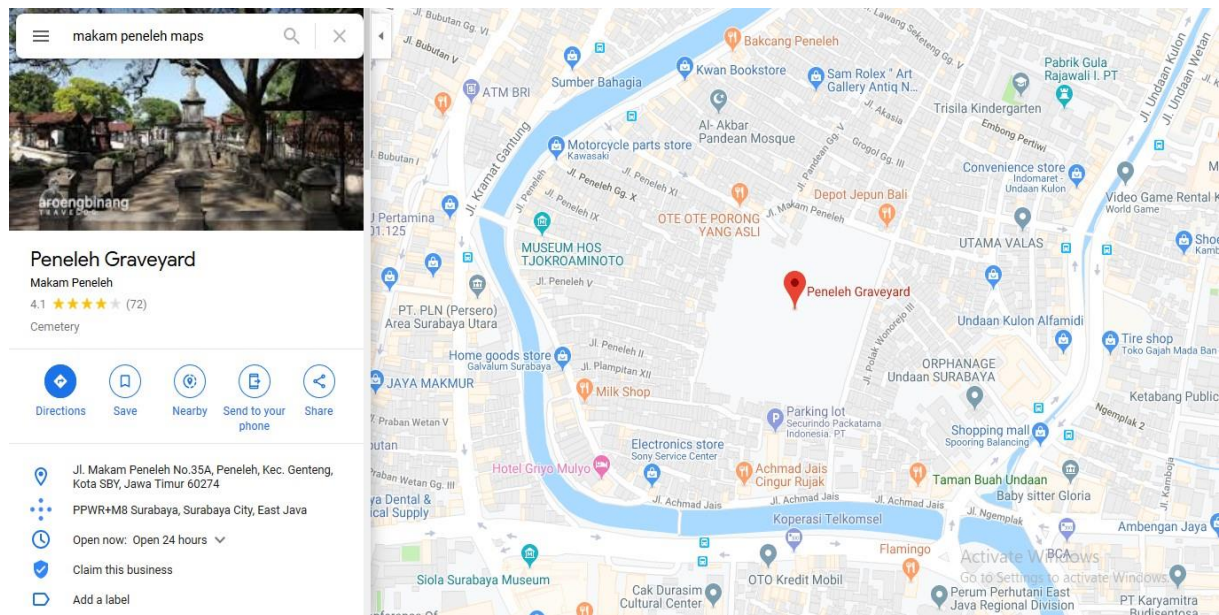
- a. To increase the ecomy growth;
- b. To increase people's welfare;
- c. To eradicate poverty;
- d. To overcome unemployment;
- e. to preserve nature, environment and resources;
- f. to advance culture;
- g. to lift the image of nation;
- h. to raise the sense of love for the homeland;
- i. to strengthen national identity and unity; and
- j. to strengthen friendship among nations.

The purpose of tourism is not yet seen from the Dutch cemetry in Peneleh Surabaya.<sup>3</sup> This cemetry id located in Jl. Makam Peneleh No. 35 A Peneleh, Kecamatan Genteng, Surabaya.

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take place among and in the countries of the North. Europe (59 percent) and North America (14 percent) are the destinations for more than 70 percent of international journeys. The share of the 'Third World' in international tourism has risen from approx. 10 percent in the mid seventies to some 30 percent today. The East Asian and Pacific region has experienced the largest growth rates. In 1975 its share in international journeys figured 3.9 percent, in 1997 this had reached 14.7 percent. The impacts of tourism are extremely ambivalent. On the one hand, tourism plays an important and certainly also positive role in the socio-economic and political development of many countries. It can contribute to socio-economic development and cultural exchange and can further promote international relations and peace by creating an awareness that respects the diversity of cultures and ways of life. On the other hand, many hopes that were placed on tourism as a motor of economic development have been disappointed. At the same time, in many tourism destinations partially massive negative impacts upon the environment, culture and society are becoming apparent that are calling into question whether tourism is a viable development pathway, further in Report to The 7th Meeting of the Commission on Sustainable Development, Forum on Environment & Development Am Michaelshof 8-10 D - 53177 Bonn, Germany, p. 3.

<sup>3</sup> Peneleh's tomb is one of the oldest tombs in East Java. This tomb is also known as the Dutch tomb or the Christian tomb. The growth of settlements around the grave site slowly began to take over the function of the tomb. Peneleh's tomb is inhabited by no less than 15 thousand - 25 thousand European bodies in East Java, especially Surabaya. They are not only Dutch but from Germany, England, Italy, Armenia, France, Belgium, Austria, Switzerland, Norway and others. Further in 'Wikipedia', 2019 <[https://id.wikipedia.org/wiki/Makam\\_Peneleh](https://id.wikipedia.org/wiki/Makam_Peneleh)>.



**Picture 1.**  
Location Of Peneleh cemetery

In this article the author focuses on legal matters so that the Dutch cemetery in Peneleh Surabaya becomes worthy of tourist destination.

## B. Discussion

R.W. McIntosh<sup>4</sup> revealed that the motivation for travel is as follows:

1. Pleasure (having fun), with the goal of “escaping” temporarily from the daily routine;
2. Relaxation, rest and recreation (resting to relieve stress), with the aim to maintain the health of the body and mind which is to visit the environment which is different than the daily spot, where the environment gives the peaceful and healthy impression;
3. Health, which is a visit to places that can maintain health and cure diseases;
4. Participation in sports (recreational sports);
5. Curiosity and culture (curiosity and cultural motivation), which is now increasing in quality due to the development of information technology and improving the education quality. The background motivation of the person making sort of visit is the desire to see the tourism destinations that have a very high historical and cultural value or that hold a very important cultural activity, such as music festivals, art festivals, theatres and so on;
6. Ethnic and family (ethnic families and visits to the family). Specifically related to the ethnic similarities, where people can be motivated to visit the place because it is regarded as the residence/birth of their ancestors;
7. Spiritual and religious (spiritual and religious reason);
8. Status and prestige (showing social status and prestige), in order to show others that the person has the high level of social and prestige since they are able to travel the particular tourism destination; and
9. Professional or business (conducting activities which is related to the profession/occupation), such as the activity of attending a hearing or conference.

<sup>4</sup> Antariksa B, *Peluang Dan Tantangan Pengembangan Kepariwisata Di Indonesia* (Sumatera Barat, 2011).

As a cemetery consisting of 20,000 (twenty thousand) bodies and 10,000 (ten Thousand) tombs, the existence of this cemetery should be given such some treatment. If it is associated with article 5 letter A and letter B Act No. 10-2009 that tourism is held with the principle:

- a. Upholding the religious norms and cultural values as the embodiment of the concept living in the balance of relationship between men and God almighty, the relationship between men and their fellows, and the relationship between man and the environment;
- b. Upholding the human rights, cultural diversity, and local wisdom;

An understanding of the letter a must be interpreted that the abandonment of the Dutch cemetery in Surabaya Peneleh will be based on religious and cultural norms. When the attitude remains done it will create a state of society that does not care about the surrounding environment. People become insensitive because the government also has no desire to keep it. Tourism coordinator must be followed by the manifestation of travel motivation. Tourists are not a source of profit but it is the subject of relationships in developing the principles of tourism.

Tourism as a vehicle for individual and collective fulfilment

1. Tourism, the activity most frequently associated with rest and relaxation, sport and access to culture and nature, should be planned and practised as a privileged means of individual and collective fulfilment; when practised with a sufficiently open mind, it is an irreplaceable factor of self-education, mutual tolerance and for learning about the legitimate differences between peoples and cultures and their diversity;
2. Tourism activities should respect the equality of men and women; they should promote human rights and, more particularly, the individual rights of the most vulnerable groups, notably children, the elderly, the handicapped, ethnic minorities and indigenous peoples;
3. The exploitation of human beings in any form, particularly sexual, especially when applied to children, conflicts with the fundamental aims of tourism and is the negation of tourism; as such, in accordance with international law, it should be energetically combatted with the cooperation of all the States concerned and penalized without concession by the national legislation of both the countries visited and the countries of the perpetrators of these acts, even when they are carried out abroad;
4. Travel for purposes of religion, health, education and cultural or linguistic exchanges are particularly beneficial forms of tourism, which deserve encouragement;
5. The introduction into curricula of education about the value of tourist exchanges, their economic, social and cultural benefits, and also their risks, should be encouraged.<sup>5</sup>

People must know and participate in the surrounding environment. In the letter B of Act No. 10-2009 explained the high regard of human rights, cultural diversity and local wisdom. This is reflected by the number of Surabaya figures in the Dutch tomb of Peneleh Surabaya, among others P.J.B. de Perez, a French person and the first person to make research related to Prince Diponegoro, Pastor Van Den Elzen, the first Pastor who was spreading the religion of Europe in the land of Surabaya, and Van Der Tuuk, who's creating

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<sup>5</sup> Resolution A/RES/406 (XIII) At and the thirteenth WTO General Assembly, *Global Code Of Ethics For Tourism* (Santiago, Chile, 1999).



Indonesian language which was identified from Malay language.<sup>6</sup> It's also noticed that in article 25 of the Government regulation of the Republic of Indonesia number 50 year 2011 on the master plan of National Tourism Development Year 2010 – 2025 that the policy direction of public infrastructure development, public facilities, and tourism facilities are included:

- a. Development of public infrastructures, public facilities, and tourism facilities to support the pioneering development of National Tourism Destination;
- b. Improvement of general infrastructure, quality of public facilities, and tourism facilities that support the growth, quality nad competitiveness of National Tourism Destination; and
- c. Management of public infrastructures, construction of public facilities, and tourism facilities for the tourism destinations that have exceeded the supporting power threshold

When the tourist destination is materialized, the tourism development could be achieved well.<sup>7</sup> As a comparison of many things that can be known if the Surabaya government managed the Dutch Cemetry in Peneleh Surabaya.

Zijne Excellenti  
**M. PIETER MERKUS.**  
Komandeur der Orde van den  
Nederlandsehe Leeuw  
Rider van her Legioen van Eer  
van Frankrijk  
**GOUVERNEUR GÉNÉRAL  
VAN NEDERLANDSCH INDIE.**  
Opperbevelhebber der Land. en,  
Zeemagt beoosten de Kaap de Goede  
Hoop. enz. enz. enz.  
Overleden ten Huize Simpang.  
den 2n Agustus 1844



#### GUBERNUR JENDRAL HINDIA BELANDA 1840



**Picture 2.**

The Tomb Of Governor General Of the Dutch East Indies 1840

<sup>6</sup> Samsul Arifin, 'Makam Peneleh Surabaya, Makam Tokoh Kolonial Dari Gubernur Yang "Dilupakan" Sampai Pencipta 'Bahasa'', 2019 <<http://jatim.tribunnews.com/2019/03/17/makam-peneleh-surabaya-makam-tokoh-kolonial-dari-gubernur-yang-dilupakan-sampai-pencipta-bahasa?page=2>>.

<sup>7</sup> Tourism in a free market economy can exploit natural resources as a means of profit accumulation, and consequently has been described as the commercialization of the human need to travel. The notion of unlimited gain has led to the exploitation of host communities, their cultures and environments. Tourism perpetuates inequality, with the multinational companies of the advanced capitalist countries retaining the economic power and resources to invest in and ultimately control nations of the developing world. In many cases, a developing country's engagement with tourism serves simply to confirm its dependent, subordinate position in relation to the advanced capitalist societies –itself a form of neo-colonialism. Freya Higgins-Desbiolles, 'More than an "Industry": The Forgotten Power of Tourism as a Social Force', *Tourism Management*, 27.6 (2006), 1192-1208 <<https://doi.org/10.1016/j.tourman.2005.05.020>>.

TER GEDACHTENIS AAN DE EERW. MERE ALDEGONDE OVERSTE DER ZUSTERS URSULINEN TE BUITENZORG OVERLEDEN TE SOERABAIA 17 DECEMBER 1914	TER GEDACHTENIS AAN DE EENW. MOEDER LOUISE EERSTE OVERSTE DER EENW. ZUSTERS URSULINEN SOERABAJA OVERLEDEN 14 MAART 1890 VAN HAR DANBARE LEERLINGEN	MERE PATRICE MEI 1941	ZUSTER THERESE 13 OCTOBER 1883	ZUSTER STAINSLAS 30 JANUARI 1878
		ZR. LENE 14 JUNI 1933	ZUSTER EUPHRASIE 23 JUN 1883	ZUSTER ANCELA 11 JULI 1875
		ZR. DOMINICA 17 AUG 1931	ZUSTER ALOYSIA 28 DECEMBER 1882	ZUSTER ALPHONSE 11 NOVEMBER 1868
		ZR GERARDINE 15 JULI 1930	ZUSTER CUNERE 12 AGUSTUS 1880	BEAUJEAN BEELD LUIK ( BELGIEN )
		ZUSTER THRESE 16 AUG 1894	ZUSTER ODINE 12 NOV 1916	ZUSTE ROSALIE 31 MAART 1906
		EL DETHEIR ARCHT LUIK ( BEEGIEN )	ZUSTER MARCUERITE 21 NOV 1918	ZUSTER JOSEPHINE 28 OCT 1907
		ZUSTER ANGELINE 8 NOV 1893	ZUSTER AGNES 10 DECEMBER 1925	ZUSTE HELENE 7 JUNI 1908
		ZUSTER AUGUSTINE 11 SEP 1892	ZUSTER IMELDA 12 NOV 1926	ZUSTER GERARDI 21 JULI 1908
		ZUSTER LUGIE 7 JULI 1891	ZUSTER BRIGITTE 24 JUNI 1903	ZUSTER URSULE 9 SEPT 1910
		ZUSTER MARIE 10 OCT 1890	ZUSTER OLIVE 24 AUG 1899	ZUSTER LAURENE 5 JAN 1918
		ZUSTER ANNA 25 SEPTEMBER 1888	ZUSTER FRANCOISE 15 OCT 1894	ZUSTER AGNES 19 MAART 1886
		ZUSTER STANISLAS 27 JULI 1886	ZUSTER URSULA 17 NOV 1885	

**ZY RSTER N VREDE**



**MAKAM URSULINE SISTERS**  
TOTAL JENAZAH - 60  
TERIDENTIFIKASI - 37

Picture 3.  
The Tomb Of Nurse Ursulin



Picture 4.  
The Corner Of Dutch Cemetery In Peneleh Surabaya





**Picture 5.**

The Writer In Front Of One Of The Tombs



HIER LIGT BEGRAVEN  
 DE WEELERWAARDE HEER  
**MARTINUS VAN DEN ELZEN**  
**PASTOOR DERRG GEMEENTE TE SOERABAIJA**  
 GEBOREN TE GEMERT DE 11 APRIL 1882  
 ENOVRLEDEN TE SOERABAIJA DEN 19 JULI 1866  
 ZALIG ZIJN DE DOODEN DIE IN DEN HEER STERVEN  
 WANT HUNNE WERKEN VOLGENHUN APOC XIV 13  
 ZIJNE PAROCHIANEN EN VRIENDEN.



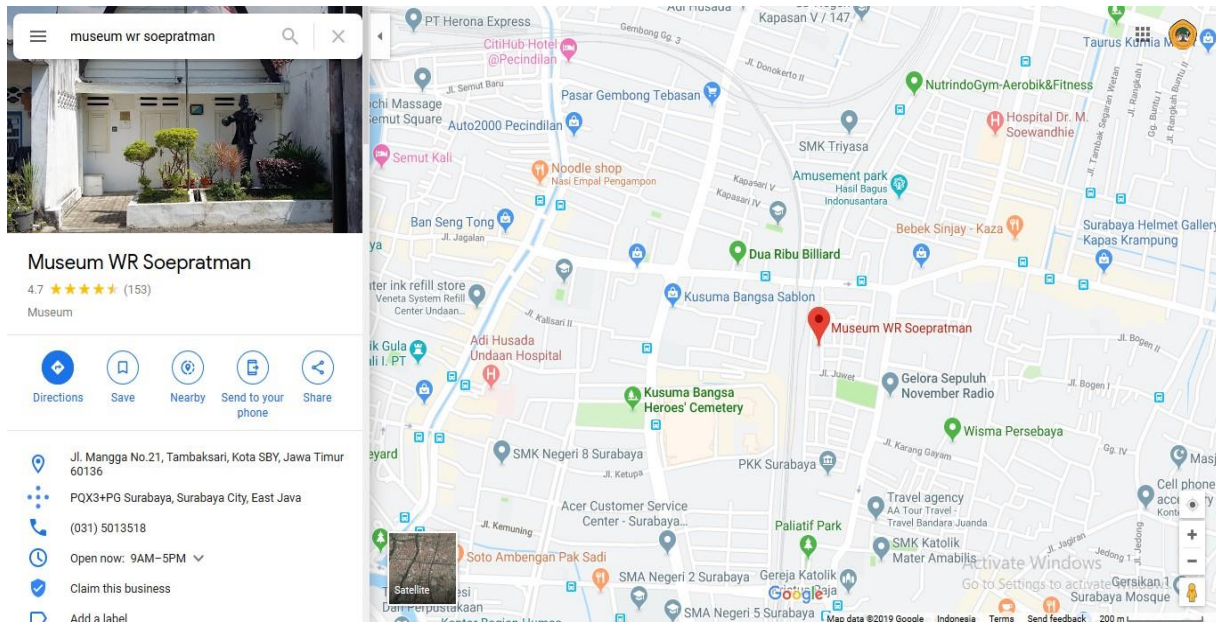
**PASTOOR INDONESIA**

**Picture 6.**

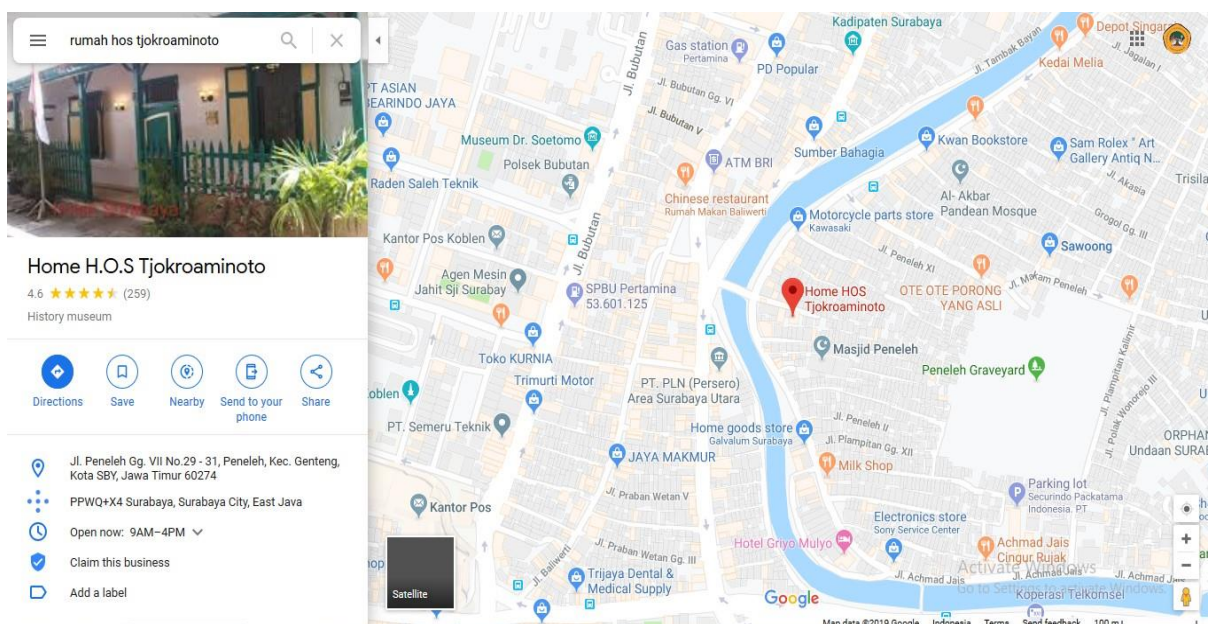
The Tomb Of Indonesian Pastor

### C. Conclusion

Seeing the development of tourism in Indonesia, especially in Surabaya, The attention of the Dutch cemetery in Peneleh Surabaya should take precedence. The cemetery is close to Wage Rudolf Soepratman Museum and House of H.O.S. Tjokroaminoto so that here the road to get to the Dutch cemetery in Peneleh Surabaya could be made.



**Picture 7.**  
Wage Rudolf Soepratman Museum



**Picture 8.**  
H.O.S Tjokroaminoto' House

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